

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

Mert Duymayan,

Case No. 2:25-cv-00223-CDS-DJA

Plaintiff,

## Order

V.

Elite Medical Center, LLC,

Defendant.

Pro se Plaintiff Mert Duymayan  
No. 1). However, Plaintiff's application  
Plaintiff's application without prejudice.

## I. Discussion.

Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action “without prepayment of fees or security therefor” if the plaintiff submits a financial affidavit that demonstrates the plaintiff “is unable to pay such fees or give security therefor.” The Ninth Circuit has recognized that “there is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn [*in forma pauperis*] status.” *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but he must demonstrate that because of his poverty he cannot pay those costs and still provide himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

The applicant's affidavit must state the facts regarding the individual's poverty "with some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial status and to deny a request to proceed *in forma pauperis*. See, e.g., *Marin v. Hahn*, 271

1 Fed.Appx. 578 (9th Cir. 2008) (finding that the district court did not abuse its discretion by  
2 denying the plaintiff's request to proceed *in forma pauperis* because he "failed to verify his  
3 poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's  
4 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16-cv-00768 AJB (BLM), 2016  
5 U.S. Dist. LEXIS 192145, at \*1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient  
6 grounds for denying an *in forma pauperis* application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441,  
7 443-44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on  
8 *in forma pauperis* application).

9 Plaintiff's application contains contradictory information because he claims to make no  
10 money from employment or any other source, but asserts that he pays \$1,100 in rent, utilities, and  
11 insurance each month. It is not clear how Plaintiff pays these bills given his assertion to make no  
12 money from any source. Given these contradictions, the Court cannot determine whether Plaintiff  
13 qualifies for *in forma pauperis* status. The Court will give Plaintiff one opportunity to file a  
14 complete *in forma pauperis* application. The Court further orders that Plaintiff may not respond  
15 with a zero or "not applicable" in response to any question without providing an explanation for  
16 each of the questions. Plaintiff also may not leave any questions blank. Plaintiff must describe  
17 each source of money that he receives, state the amount he received, and what he expects to  
18 receive in the future.

19 The Court denies Plaintiff's *in forma pauperis* application without prejudice. The Court  
20 gives Plaintiff 30 days to file an updated application. Plaintiff must fully answer all applicable  
21 questions and check all applicable boxes. Plaintiff may alternatively pay the filing fee in full.  
22 Since the Court denies Plaintiff's application, it does not screen the complaint at this time.  
23

24 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*  
25 *pauperis* (ECF No. 1) is **denied without prejudice**.

26 **IT IS FURTHER ORDERED** that Plaintiff has until **April 21, 2025**, to file an updated  
27 application to proceed *in forma pauperis* as specified in this order or pay the filing fee. Failure to  
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1 timely comply with this order may result in a recommendation to the district judge that this case  
2 be dismissed.

3 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to send Plaintiff  
4 a copy of this order and of the short form application to proceed *in forma pauperis* and its  
5 instructions.<sup>1</sup>

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7 DATED: March 21, 2025

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DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> This form and its instructions can also be found at <https://www.nvd.uscourts.gov/court-information/forms/> under Code AO 240.